

Serial No.: 10/683,546

Attorney's Docket No.:14083/004002

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. The drawings stand objected to as not including reference designations mentioned in the specification. In response, the specification is amended herewith to change those reference designations and obviate the drawing objections in item one.

The reference designation 213 has been added to paragraph 48, to obviate the rejections thereto.

The reference assembly in Figures 2, 5 and 7 has been changed to reference designation 121 to obviate the objections thereto.

The arrow associated with reference 105 has been corrected.

The duplicate designation of elements 122 have also been removed in Figure 3.

The disclosure stands objected to due to informalities which have been corrected herein. In addition, applicants have reviewed the disclosure and all errors noticed have been corrected.

The objections to the claims have also been obviated herein by amendment.

Claim 35 stands rejected under 35 USC 112, second paragraph as being indefinite. In response, and to obviate this objection, claim 35 has been amended to depend from claim 28.

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Multiple claims stand rejected under 35 USC 102 and/or 103 based on combinations of Marshall, Prater et al, and Nakano et al. The claims also stand rejected based on Massie under 35 USC 102(f) alleging that applicant did not invent claimed subject matter. Applicant Proksch believes that he is the sole inventor of the claims which are submitted herein, and that the inventorship of these claims as is set forth in the Massie application is incorrect. The current inventor Proksch has evidence to support this fact, which evidence would presumably be provided during an interference proceeding, as appropriate. A declaration to this effect will be provided if desired; however, the inventor's declaration would appear to adequately obviate this issue.

Certain ones of these claims were only rejected based on this rejection, and those claims, such as claim 1, should hence be indicated as allowable at this point.

Turning first, therefore, to the rejection based on Marshall, this contention is respectfully traversed. Marshall requires a first fixed end and a second free end, with the reflector assembly fixed proximate to the free end, and this reflector assembly receiving light from the first source, and reflected light by the reflector assembly indicative of an amount of longitudinal deflection. The piezoelectric actuator

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18 in Marshall does not have second free end. Note that one end of the actuator is connected to the stage, and the other end years fixed to the frame. Therefore, this does not have a free and as claimed, and therefore certainly does not meet the limitations of claim 9. Therefore, claim 9 should be allowable with the claims that depend therefrom.

Claim 28 defines that an optical measuring device includes a source of electromagnetic generation, a sensor that detects a position of the beam, and that in response to actuator movement, the measuring device changes the position of the beam. However, the measuring device here does not change the position of the beam, but rather changes the position of the stage.

Similar claims are also rejected based on Prater et al. Again, however, Prater et al does not teach or suggest the subject matter with a second free end of the piezoelectric actuator, as claimed. Therefore, all of these claims should also be allowable.

Similar claims also stand rejected based on Nakano et al. Nakano, again, however, does not have an analogous piezoelectric actuator with a first end and a second free end, with the reflector assembly fixed proximate to the free end, as claimed. Therefore, these claims should be allowable for reasons discussed above.

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18 in Marshall does not have second free end. Note that one end of the actuator is connected to the stage, and the other end years fixed to the frame. Therefore, this does not have a free and as claimed, and therefore certainly does not meet the limitations of claim 9. Therefore, claim 9 should be allowable with the claims that depend therefrom.

Claim 28 defines that an optical measuring device includes a source of electromagnetic generation, a sensor that detects a position of the beam, and that in response to actuator movement, the measuring device changes the position of the beam. However, the measuring device here does not change the position of the beam, but rather changes the position of the stage.

Similar claims are also rejected based on Prater et al. Again, however, Prater et al does not teach or suggest the subject matter with a second free end of the piezoelectric actuator, as claimed. Therefore, all of these claims should also be allowable.

Similar claims also stand rejected based on Nakano et al. Nakano, again, however, does not have an analogous piezoelectric actuator with a first end and a second free end, with the reflector assembly fixed proximate to the free end, as claimed. Therefore, these claims should be allowable for reasons discussed above.

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It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the above amendments and remarks, therefore, all of the claims should be in condition for allowance. A formal notice to that effect is respectfully solicited.

Please apply \$475.00 for the three month extension fee and any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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